

Kathryn S. Mahe
Justin K. Cole
GARLINGTON, LOHN & ROBINSON, PLLP
350 Ryman Street • P. O. Box 7909
Missoula, MT 59807-7909
Phone (406) 523-2500
Fax (406) 523-2595
ksmahe@garlington.com
jkcole@garlington.com

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

ANNA BERNSTEIN,

Plaintiff,

v.

NOTICE OF REMOVAL

MARCUS DALY MEMORIAL
HOSPITAL CORPORATION,

Defendant.

TO: Plaintiff Anna Bernstein, and her counsel of record, William Rideg of the law firm William Rideg Law, PLLC; and Ravalli County Clerk of District Court:

Defendant Marcus Daly Memorial Hospital Corporation (“MDMH”)

respectfully gives notice and shows the Court:

1. On February 22, 2021, Anna Bernstein filed a Complaint naming Defendant MDMH in the Montana Twenty-First Judicial District Court, Ravalli County, entitled *Anna Bernstein, Plaintiff v. Marcus Daly Memorial Hospital Corporation, Defendant*, Cause No. DV-21-87. On or about March 10, 2021, MDMH acknowledged and waived service of the Complaint and Summons. MDMH has not yet acknowledged and waived service. This Notice is therefore timely pursuant to 28 U.S.C. § 1446. True and correct copies of the Civil Coversheet, Complaint, and Summons are attached hereto as Exhibits A, B, and C, respectively. No further proceedings have been had in the action.

2. In addition to claims arising under Montana state law, Count Four of the Complaint alleges that Defendant MDMH violated the federal Family and Medical Leave Act (“FMLA”) and seeks damages under the FMLA. *See Ex. B: Compl.*

3. The above-described action is one in which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1331, and is one which may be removed to this Court by the Defendant MDMH pursuant to the provisions of 28 U.S.C. § 1441(a), in that it is a civil action wherein the matter in controversy includes a claim arising under the laws of the United States.

4. This Court has, and should retain, supplemental jurisdiction over Plaintiff’s state law claims under 28 U.S.C. § 1337(a), because Plaintiff’s state law

claims form part of the same case or controversy under Article III of the United States Constitution. Plaintiff's state law claims share a common nucleus of operative fact with her federal law claims, and the parties are identical. Resolving Plaintiff's federal and state law claims in a single action furthers the interest of judicial economy.

5. Under 28 U.S.C. § 1441(a) and Local Rule 1.2(c)(5), venue of this removed action is proper in this Court as the district and division embracing the place where the state action is pending.

6. Pursuant to 28 U.S.C. § 1446(d), MDMH will promptly give the adverse party written notice of the filing of this Notice of Removal, and promptly file a copy of this Notice of Removal with the Clerk of the Montana Twenty-First Judicial District Court, Ravalli County, Montana, as required by Local Rule 3.3(a).

7. Pursuant to Federal Rule of Civil Procedure 81(c)(2)(C), MDMH will file its Answer within seven days after filing the Notice of Removal.

WHEREFORE, Defendant MDMH prays that the action now pending against it in the Montana Twenty-First Judicial District Court, Ravalli County, be removed to this Court.

DATED this 1st day of April, 2021.

/s/ Kathryn S. Mahe

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2021, a copy of the foregoing document was served on the following persons by the following means:

 Hand Delivery
1-2 Mail
 Overnight Delivery Service
 Fax (include fax number in address)
1-2 E-Mail (include email in address)

1. William E. Rideg
RIDEG LAW OFFICE, PLLC
P.O. Box 701
Missoula, MT 59806
william@rideglaw.com
Attorneys for Plaintiff
2. Clerk of Court
Ravalli County District Court
205 Bedford Street, Suite D
Hamilton, MT 59840
courtfilings@rc.mt.gov


